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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,107	01/22/2004	Robert Bruce Mahaffey	AUS920030801US1	6609

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04/17/2007

EXAMINER

SHAH, AMEE A

ART UNIT

PAPER NUMBER

3625

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/763,107

Applicant(s)

MAHAFFEY ET AL.

Examiner

Amee A. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1-15 and 18-26 are pending in this action, claims 16 and 17 having been previously withdrawn.

#### ***Response to Amendment***

Applicant's amendment, filed February 14, 2007, has been entered. Claims 1, 2, 8, 20 and 24 have been amended. In view of the replacement drawings, the objections to the drawings are withdrawn.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-15 and 18-26 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amendments.

#### ***Examiner Notes***

(1) Claims 21 and 25 recite the limitation "an accessible website." The term "accessible" will be interpreted in the broadest reasonable manner to mean accessible through a personal computer or any other device.

(2) Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in

entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1, 2, 4-15 and 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens, US 2003/0004831 A1 (hereafter referred to as "Owens") in view of Vanska et al., US 2004/0093274 A1 (hereafter referred to as "Vanska").**

Referring to claim 1. Owens discloses a system for providing a shopping guide to shoppers of a retail business (*at least* Abstract), comprising:

- a website (Fig. 4 and ¶0195, i.e. the Grocery Shopping Web Site);

- a server interconnected to the website (Fig. 4 and ¶0195); and
- a presentation means coupled to the server, configured to have retail products selectable through the website (Fig. 4 and ¶¶0197-0200 and 0226, i.e. the user workstations, kiosk or personal digital assistant from where products can be selected);
- wherein the server is configured to pass product information and retail store information, including product location information about the selected retail products to the presentation means (¶¶0062, 0208 and 0214);
- wherein the presentation means is configured to present a shopping guide which includes the product information and the retail store information, including the product location information (¶¶0067, 0208 and 0214 – note the guide is the shopping list with product information which can include product location in the retail store).

Owens does not specifically disclose wherein the product location information comprises a map of a retail store and a route through the retail store that passes by the selected retail products within the retail store. However, this difference is only found in the nonfunctional descriptive material. The presentation means is capable of presenting a shopping guide including product information and store information, regardless of whether that information includes location information or a map of the retail store. Claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function, *see In re Danly* 263 F.2d 844, 847, 120 USPQ 582, 531 (CCPA 1959). A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1657 (Bd. Pat. App. & Inter. 1987). Thus

the structural limitations of claim 1, including a presentation means configured to present a shopping guide, are disclosed in Spiegel as described herein.

Nonetheless, Vanska, in the same field of endeavor and/or pertaining to the same issue teaches a method and apparatus for facilitating a shopping experience including a presentation means configured to present a shopping guide which includes the product information and the retail store information and the product location information comprises a map of a retail store and a route through the retail store that passes by the selected retail products within the retail store (Fig. 8A and ¶¶0062-0065 – note the map is the floor plan overlaid with location of the items and the optimal shopping route).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Owens to include the teachings of Vanska to allow for the presentation of a shopping guide including product information comprising a map of a retail store and a route through the retail store that passes by the selected retail products within the retail store. One of ordinary skill in the art would have been motivated to do so based on the knowledge generally available to one of ordinary skill in the art at the time of the invention that doing so would save consumers time by being directed to the locations of desired items instead of having to search for the items, particularly in an unfamiliar store.

Referring to claim 2. Owens in view of Vanska also teaches the system of claim 1 further comprising a retrieval means coupled to the server wherein the server is further configured to obtain from the retrieval means product information and retail store information, including product location information, about the selected retail products (Owens, Fig. 4 and ¶¶0196, 0197,

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0200, 0201, 0208 and 0214 – note that the Grocery Shopping Web Site retrieves information from the Retail Grocery Store Web Sites, manufacturers, and advertisers).

Referring to claim 4. Owens in view of Vanska also teaches the system of claim 2 wherein the website is further configured to receive customer identification information from the shopper and the server is further configured to obtain from the retrieval means customer profile information about the person identified by the customer identification information (Owens, Fig. 36 and ¶¶0206-0208 and 0218).

Referring to claim 5. Owens in view of Vanska also teaches the system of claim 2 wherein the server is further configured to interact with the shopper through the website and wherein the server is further configured to request demographic information and shopping habit information from the shopper (Owens, Fig. 37 and ¶0218).

Referring to claim 6. Owens in view of Vanska also teaches the system of claim 5 wherein the server is further configured, responsive to the demographic information and shopping habit information requested by the server, to obtain product information and retail store information, including product location information (Owens, Figs. 38-43 and ¶¶0208, 0211, 0214, 0218 and 0232 – note the server obtains the stores associated with the user's profile and displays advertisements, i.e. product information, relevant to the user's shopping list).

Referring to claim 7. Owens in view of Vanska also teaches the system of claim 2 wherein the server is further configured to reference in the shopping guide a retail product not selected by the shopper (Owens, ¶¶0211 and 0232).

Referring to claim 8. Owens in view of Vanska also teaches the system of claim 2 wherein the server is further configured to interact with the shopper through the website and the server is further configured to reference a retail product not selected by the shopper (Owens, ¶¶0211 and 0232).

Referring to claim 9. Owens in view of Vanska also teaches the system of claim 2 wherein the server is further configured to interact with the shopper through the website, and wherein the server is further configured for the shopper to select a retail location of the retail business through the interaction (Owens, Figs. 38-43 and ¶¶0218-0219).

Referring to claim 10. Owens in view of Vanska also teaches the system of claim 9 wherein the server is further configured to obtain information about an event occurring at the retail location (Owens, ¶¶0222 and 0268 – note the event is the in-store promotion).

Referring to claim 11. Owens in view of Vanska also teaches the system of claim 2 wherein the server is further configured to obtain information about retail store locations from the retrieval means, and wherein the server is further configured to include information about



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one or more retail store locations for the shopper in the shopping guide (Owens, Figs. 38-43 and ¶¶0218-0219).

Referring to claim 12. Owens in view of Vanska also teaches the system of claim 2 wherein the server is further configured to interact with the shopper through the website, and wherein the server is further configured to reference one or more retail store locations for the shopper during the interaction (Owens, Figs. 38-43 and ¶¶0218-0129).

Referring to claim 13. Owens in view of Vanska also teaches the system of claim 2 wherein the system further comprises a retail store map generating means for generating a retail store map route in response to input from the shopper (Vanska, Fig. 8A and ¶¶0062-0065) in order to save consumers time by being directed to the locations of desired items instead of having to search for the items, particularly in an unfamiliar store.

Referring to claim 14. Owens in view of Vanska also teaches the system of claim 13 wherein the retail store map generating means is further configured to be responsive to other data as well as to the input from the shopper (Owens, ¶¶0218, 0238 and 0239 – note that the other data comprise the item prices).

Referring to claim 15. Owens in view of Vanska also teaches the system of claim 2, wherein the website is configured to be accessed through a personal computer (Owens, Fig. 4 and ¶¶0199-0200).

Referring to claim 18. Owens in view of Vanska also teaches the system of claim 2, wherein the website is configured to be accessed through a portable computing device (Owens, Fig. 4 and ¶0202).

Referring to claim 19. Owens in view of Vanska also teaches the system of claim 18, wherein the presenting means consists of downloading to the portable computing device (Owens, ¶¶0002, 0025, 0202 and 0229).

Referring to claims 20-26. All of the limitations in method and apparatus claims 20, 23, 24 and 26 are closely parallel to the limitations of apparatus claims 1, 5, 6 and 15, analyzed above and are rejected on the same bases. With reference to the method claims, the nonfunctional descriptive material of the product location information comprises a map of a retail store and a route through the retail store that passes by the selected retail products within the retail store is not functionally involved in the generating step recited. The generating of a shopping guide including product location information would be performed in the same manner regardless of whether the location information was the shelf and aisle location or a map. Thus, the non-functional descriptive material will not distinguish the claimed invention from the prior art Owens in terms of patentability. See *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowrey*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

**Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owens in view of Vanska as applied to claim 1, above, and further in view of Janakiraman et al, US 2002/0156804 A1 (hereafter referred to as "Janakiraman").**

Referring to claim 3. Owens in view of Vanska also teaches of claim 2, as discussed above, but does not explicitly disclose wherein the website is accessible by persons with disabilities. Janakiraman, in the same field of endeavor and/or relating to the same issue, discusses prior art of text content for multimedia presentation (§§0005-0006) and discloses a method, system and program for presenting multimedia data in a manner that is readily understandable and appropriate to persons with disabilities such as blindness or cognitive disabilities, including wherein the website is accessible by persons with disabilities by filtering graphical displays (§§0038-0044).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to have modified the system of Owens/Vanska to include the teachings of Janakiraman to allow for the website to be accessible to persons with disabilities. Doing so would allow for persons with disabilities to have access to website content so as to abide by federal, state and/or local regulations requiring equal access to technology for persons with disabilities and so as to increase the pool of customers to the website.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyata et al., US 2002/0069131 A1, discloses a system and method for facilitating

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shopping by displaying a guide map that displays the locations of products selected and the optimum purchasing path between them (see, e.g., pages 2-5).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ameer A. Shah whose telephone number is 571-272-8116. The examiner can normally be reached on Mon.-Fri. 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AAS

April 12, 2007



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